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San Antonio TX 78205

In re Application of :  
CORDRAY et al. :  
Application No.: 10/018,953 : DECISION  
PCT No.: PCT/US00/18012 :  
Int. Filing Date: 30 June 2000 :  
Priority Date: 30 June 1999 :  
Attorney's Docket No.: P-120873.1PCT US :  
For: NASAL SPRAY HAVING DEAD SEA SALT :

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)" filed 27 March 2003 and applicant's "SECOND PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)" filed 01 April 2003.

#### **BACKGROUND**

On 30 June 2000, applicant filed international application PCT/US00/18012, which designated the United States and claimed a priority date of 30 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 January 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 November 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 31 December 2001.

On 21 December 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an assertion of small entity status, the U.S. Basic National Fee for a small entity, and a "CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT."

On 22 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for a small entity under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 15 November 2002, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to timely respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 22 February 2002.

On 20 February 2003, applicant submitted via facsimile transmission a "CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT." (The "CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT" purportedly filed via facsimile transmission on 03 December 2002 does not appear in the application file.)

On 27 March 2002, applicant submitted a "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)." The petition fee for a small entity has been paid.

On 01 April 2002, applicant submitted a "SECOND PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)." This second petition was submitted because the submission filed 27 March 2002 was not signed.

### DISCUSSION

#### Petition Under 37 CFR 1.137(a)

The "CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT" filed 21 December 2001 (copy enclosed) indicates the correspondence address as Jackson Walker, LLP, 300 Convent Street, Suite 1650, San Antonio, TX 78205. There is no correspondence address listed in the Transmittal Letter filed 21 December 2001.

The "CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT" filed via facsimile transmission on 20 February 2003 indicates the correspondence address as Jackson Walker, LLP, 112 E. Pecan, Suite 2100, San Antonio, TX 78205.

The correct correspondence address for the instant application from 21 December 2001 until 20 February 2003 was Jackson Walker, LLP, 300 Convent Street, Suite 1650, San Antonio, TX 78205. This is the address to which the NOTIFICATION OF MISSING REQUIREMENTS mailed 22 February 2002 and the NOTIFICATION OF ABANDONMENT mailed 15 November 2002 were sent. Applicant did not file a change of correspondence address indicating the *E. Pecan* address until 20 February 2003. Applicant urges that a "Change of Address for Daniel S. Hodgins, Attorney of Record" filed in international application number PCT/US00/18012 on 05 July 2001 should have carried over into the national stage application. However, the correspondence address does not carry over from the international application to the national stage application. Moreover, even assuming arguendo that it did carry over, the "CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT" filed 21 December 2001 would have taken

precedence over any such carry over. Accordingly, the abandonment of the application cannot be considered unavoidable.

Declaration of Inventors

Neither the declaration of the inventor filed 27 March 2003 nor the declaration of the inventor filed 01 April 2003 is in compliance with 37 CFR 1.497(a)-(b). A copy of the entire declaration submitted to applicant(s) for signing must be provided. In the declarations filed 27 March 2003 and 01 April 2003, page 4, the signature page, appears to have been faxed several times while pages 1-3 do not appear to have been faxed at all. This suggests that pages 1-3 of the declaration were not associated with page 4 at the time of execution, thus rendering the execution improper.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(a) is also DISMISSED.

As indicated in the NOTIFICATION OF ABANDONMENT mailed 15 November 2003, the application is abandoned as to the United States of America.

Applicants may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Daniel Stemmer  
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Enc.: copy of "CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT" filed 21 December 2001

IN RE APPLICATION OF: Scott Cordray  International Application No.: PCT/US/18012  International Filing Date: June 29, 2000  TITLE: NASAL SPRAY HAVING DEAD SEA SALT	ATTY DKT NO. P-120873.1(PCT)(US)
TO: Box PATENT ADDRESS CHANGE/NO FEE Assistant Commissioner of Patents Washington, D.C. 20231	

**CHANGE OF ATTORNEY CONTACT/ADDRESS IN PATENT**

The previously listed attorney contact has merged with and the firm name changed to Jackson Walker, LLP effective July 15, 2000.

Please update your records on this application to send all correspondence, or direct all telephone calls, for this application as follows:

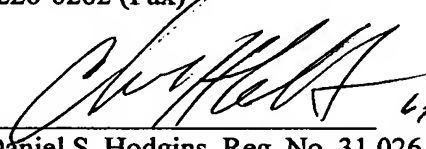
Daniel S. Hodgins	State Bar No. 09769120	Reg. No. 31,026
William B. Nash	State Bar No. 14812200	Reg. No. 33,743
Dan Chapman	State Bar No. 04121300	Reg. No. 32,726
Mark H. Miller	State Bar No. 14099200	Reg. No. 29,197
Thomas E. Sisson	State Bar No. 18444900	Reg. No. 29,348
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It is certified that the person whose signature appears below has the authority to change the correspondence address/contact for the referenced patent.

**JACKSON WALKER, LLP**  
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By

 by permission  
 Daniel S. Hodgins, Reg. No. 31,026